IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PTITION NO: 453 OF 2006 (S/S)

1. Shashi Mohan Joshi son of late Sri Hem Chandra Joshi, Presently posted as Senior Research Assistant , Horticulture Research and Extension Centre, Chaubattia, district Almora.
2. Dr. CharuChandra Pant son of Sri Devi Datt Pant, presently posted as Senior Research Assistant, Horticulture Research and Extension Centre, Chaubattia, district Almora.
3. Dr. Basant Lal Verma son of late Sri Moti Lal Verma, presently posted as Senior Research Assistant, Horticulture Research and Extension Centre, Chaubatia, district Almora.
4. Dr. Narendra Nath Gupta son of late Sri Ram Das Gupta, presently posted as Senior Research Assistant, Horticulture Research and Extension Centre, Dhakrani, district Dehradun. Sri Gagan Pant son of late Sri Hem Chandra Pant, presently posted as Supervisor, Horticulture Research and Extension Centre, Dhakrani, Dehradun.
5. Sri Anusuya Prasad Mishra son of Sri Prakash Dayal Mishra, presently posted as Senior Research Assistant, Horticulture Researcyh and Extension Centre, Sri Nagar, district Pauri Garhwal.
6. Sri Chandra Prakash Pathak son of Sri Rewa Dhar Pathak, presently posted as Senior Research Assistant, Dr. S.L.Sah vegetable Research Centre, Metela, Almora, district Almora.
7. Sri Deepak Sah son of late Sri Chandra Mohan Sah, presently posted as Senior Research Assistant, Horticulture Research and Extension Centre, Chaubattia, district Almora.
8. Dr. Jagdish Chandra Pandey son of Sri Devi Datt Pandey, presently posted as Senior Research Assistant, Horticulture Research and Extention Centre, Chaubattia, district Almora.
9. Sri Harish Chandra Tewari son of late Sri Lbala Datt Tewari, presently posted as

Senior Research Assistant, Horticulture Research and Extension Centre, Gaina, district Pithoragarh.

10. Narendra Singh Mehta son of late Sri Shivraj Singh Mehta, presently posted as Senior Research Assistant, dSHorticulture Research and Extension Centre, Jeolikote, district Nainital.

-----Petitioners.

Versus

1. State of Uttaranchal through Secretary, Horticulture, Government of Uttaranchal, Secretariat, Dehradun, Uttaranchal.
2. Director, Horticulture, Government of Uttaranchal, Dehradun.
3. Govind Ballabh Pant University of Agriculture & Technology, Pant Nagar, Udham Singh Nagar through Vice Chancellor.

------Respondents

Sri Sudhansu Dhullia assisted by Sri Vipul Sharma, Adv, learned counsel for petitioners.
Sri Rajendra Dobhal, Advocate for the respondents.

HON'BLE RAJESH TANDON, J.

Heard Sri Vipul Sharma, Advocate for the petitioners and Sri Rajendra Dobhal, Standing Counsel for the respondents. Both the parties have submitted that the writ petition may be disposed at the admission stage.

By the present writ petition the petitioners have prayed for a writ of mandamus commanding the respondents to repatriate the petitioners to their parent department, i.e. Department of Horticulture Uttaranchal.

Briefly stated, the petitioners are the Senior Research Assistants and Junior Research Assistant in the department of Horticulture and Food Processing Uttaranchal. In the year 2003 Government of Uttaranchal has sent the petitioners on deputation

to Pandit Govind Ballabh Pant Agriculture University district Udham Singh Nagar vide order dated 2nd of July, 2003 and 29th of October, 2003. By sending the petitioners on deputation on 2nd of July, 2003 certain norms were adopted in the meeting of 2nd July, 2003 and relevant factors are quoted below:

fnukWd 2 tqykbZ 2003 dks lfpo egksn; m/kku dh v/;{krk ,oa la;qDr lfpo m/kku funs'kd rFkk vuqla/kku rFkk vuqla/kku 'kk[kk ds izfrfuf/k e.My ds lkFk gqbZ cSBd esa fuEu fCkUnqvksa ij lgefr gqbZ%

1- 'kklukns'k l[;k 827@216@iz0l0o0xzk0fo0@2001 nsgjknwu fnukWd 12 ebZ 2001 ds fcUnq 3 esa vkaf'kd la'kks/ku fd;k tk;sxkA rkfd LiIV gks lds fd orZeku dkfeZdks dh izskUufr ds volj rFkk lsok 'krsZ ;Fkkor cuh jgsxhA inksUufr dk dksbZ Hkh in lekIr ugh fd;k tk;sxkA

2- mDr 'kklukns'k ds layXu 2 esa tks 'kks/k ds in foHkkx ds v/khu j[ks x;s gS mu ij dsoy lh/kk 'kk[kk ds dkfeZdks dks izksUUkfr gsrq /kkj.kf/kdkj j[kk tk;sxkA iUruxj fo'ofo/kky; ds v/khu dk;Z djrs gq, Hkh mUgs foHkkx esa izksUufr nh tk;sxhA

3- funs'kd egksn; }kjk crk;k x;k fd iUruxj fo'ofo/kky; }kjk izLrkfor 'kks/k 'kk[kk dk <kpkW vHkh 'kklu }kjk Lohd`r ugh fd;k x;k gSaA 'kklu }kjk ;g vk'oLr fd;k x;k fd fdlh Hkh dk;Zjr deZPkkjh dks ljIyl ugh fd;k tk;sxkA fo'ofo/kky; }kjk 99 inksa dks lfEEkfYkr djrs gq, iqu% <kpk rS;kj djus dh dk;Zokgh dh tk;sxhA

5-fo'ofo/kky; ds v/khu izfrfu;qfDr ij tkus okys dkfeZd okil iSr`d foHkkx esa vkus dks LorU= gksxasA okil vkus ij m/kku foHkkx dh vU; Xkfrfof/k;ksa rFkk vko'drkuqlkj dk;Z lEikfnr djk;k tk;sxkA

On the basis of the aforesaid norms,the order for deputation was passed. The order was passed sending the petitioners on deputation. Clause (4) is quoted below :

4- lEcfU/kr dkfeZdks ds izksUufr ds fo|eku volj ;Fkkor jgsxs foHkkx }kjk inksUufr iznku fd;s tkus ds i'pkr Hkh os fo'ofo/kky; esa gh dk;Zjr jgsxsA bu dkfeZdks dh izksUufr ds dksbZ Hkh in foHkkx }kjk lekIr ugha fd;s tks;xsA

5- bu dkfeZdks dh lsok 'krsZ m/kku foHkkx dh laxr lsok fu;ekoyh ds vuqlkj gh O;og`r gksxsA

As will appear from the aforesaid order of deputation the petitioners have every right of repatriation in the parent department. The petitioners have given the details of the joining in the department of Horticulture on different posts.

The said classification is given in para 4 of the writ petition. The same are quoted below:

"Petitioner No. Date of appointment Name of the post presently the petitioners working.

Petitioner no.1.	20.10.1978	Sdenior Research Assistant.
Petitioner no.2.	12.08.1983.	-do-
Petitioner no.3.	02.11.1988	-do-
Petitioner no.4.	02.06.1990	-do-
Petitioner no.5.	16.06.1981	-do-
Petitioner no.6.	30.06.1984	-do-
Petitioner no.7.	16.10.1990	Junior Research Assistant.
Petitioner no.8.	02.07.1984.	Senior Research Assistant.
Petitioner no.9.	27.12.1985	-do-
Petitioner no.10.	06.12.1979	-do-

The petitioners have made their grievances by way of representation dated 27.02.2006. In paragraph No.4 of their representation they have stated that in clause (4) of the Government order the promotional avenue was open but the department is not taking any action for promoting the petitioners and, as such, the job of the petitioners by remaining in deputation has prejudiced the promotion of the petitioners.

Petitioners have submitted that in accordance with condition No.5 as settled between the department and the petitioners dated 2nd of July, 2003 the promotional avenue of the petitioners will not be affected. Petitioners have further submitted that said representation has not been decided.

Further, the grievance of the petitioners are that advertisemenst has been made by G.B.Pant

Agriculture University for filling the posts. Sri Rajendra Dobhal has submitted that so far as the department of the petitioners, i.e. Horticulture and Food Processing, the post are not meant for parent department.

In view of the aforesaid averements, the promotional avenue of the petitioners will not be prejudiced and I hope and trust that in view of the order passed sending the petitioners on deputation the promotional avenue of the petitioners will not be effected by the respondents.

In the meantime the representations filed by the petitioners for sending the petitioners to the parent department may be considered and appropriate orders may be passed by the respondent No.1. However, it is made clear that the conditions mentioned in the order dated 29.10.2003 and 2nd of July, 2003 will remain alive for future promotions of the petitioners. The respondents may take suitable action in deciding the representations of the petitioners by sending the petitioners to the parent department accordingly and making an avenue for future promotions in accordance with the agreement dated 2nd July, 2003 and the order passed on 29.10.2003. The respondents shall in the meantime take into consideration that the promotional avenue of the petitioners are not effected by any recruitment. The respondents are directed to decide the representations of the petitioners within a period of six weeks from the date of production of certified copy of the order.

In view of the above observations, the writ petition is disposed of. No order as to costs.

(**Rajesh Tandon,J)**

30.03.2006.
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